

REMARKS

Claims 1-20 are currently pending in the application. Claims 1-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Madoff et al. (U.S. Patent No. 7,162,448, referred to herein as “Madoff”) in view of Hauser et al. (U.S. Patent No. 6,061,789). The rejections are respectfully traversed, but Claims 1, 7, 10, 11, 17, and 20 are proposed to be amended to more clearly distinguish them from Madoff.

Applicants respectfully traverse the rejections based on Madoff because, among other things, Madoff does not disclose a “secondary auction” as disclosed and claimed in the instant application, which is characterized by an auction exposure time set by an exchange/market that is triggered by an offered price improvement over a threshold established by the exchange/market, and during which time participants may bid different price improvements over the . Applicants specifically traverse the Examiner’s inference of a “secondary auction” in the statement “where system 10 is facilitate [sic] trading of bonds, options, futures which examiner notes occurs in secondary auction or trading”; Applicants respectfully suggest that the Examiner confuses “secondary auction” with “secondary market” or “secondary offering” after the initial public offering, as discussed in Paragraph 17 of the Detailed Action. Read properly, Applicants claim an interactive secondary auction, while Madoff teaches away from such a secondary auction.

Madoff discloses an extension of the underlying auction(s) reflected across electronic markets in National Best Bid/Offer (“NBBO”) by having the market participant specify an exposure time and a price improvement – essentially making a time-limited order within the same underlying auction(s). The “price improvement mechanism” disclosed and taught in Madoff is based on a fixed exposure time specified in the originating order (col. 1, lines 49-53; col. 1, line 64 to col. 2, line 5; col. 2, lines 10-12; col. 2, lines 21-24; col. 2, lines 29-32; col. 4, lines 57-65 [“[t]he life span can be variable and can be any set time period”]; col. 6, lines 14-20 [“chosen exposure time”]; col. 7, lines 56; col. 9, lines 64-66; col. 20, lines 28-30; col. 11, lines 13-22; col. 11, lines 48-53 [alternate embodiment of collecting all responses over the exposure duration]; col. 12, lines 57-59). Madoff’s “price improvement” is also specified at the time of

order by the offeror or at the time of response by the responder relative to the National Best Bid/Offer (col. 5, lines 58-59; col. 6, lines 56-59; col. 7, lines 52-55; col. 9, lines 13-18; Fig. 11; col. 12, lines 10-30). Madoff also teaches the advantage of “trading interest to remain anonymous as to price, size and identity” (col. 2, lines 65-66; col. 7, lines 56-57). Thus, the Madoff approach is directed to an offeror-specified time period during which respondents may or may not match the offeror’s conditions, without any knowledge of the bidding for the offer. Madoff teaches away from the secondary auction disclosed and claimed in the instant application in which, during the market-established auction period, participants respond to proposed price improvements.

In Applicants’ invention a secondary auction (para. 0007) is initiated by a market participant offering a price improvement over the NBBO of greater than a threshold established by the exchange, which auction is conducted during a price improvement period (“PIP”) of a consistently short period of about three seconds set by the exchange (para. 0033). During the secondary auction, although anonymity of identity is used, unlike the teaching in Madoff, prices and quantities of other market participants are visible to market participants through Book 25 in the instant invention (paras. 0011, 0024) and improvement orders may be made (para. 0034). Thus, unlike Madoff, the instant invention provides a fast secondary auction.

Referring to the Examiner’s Detailed Action paragraph 3, as to Claims 1 and 7, Applicants respectfully traverse the Examiner’s equation at paragraphs 4(b)-(d) of Applicants’ electronic order book 25 to the server memory of Madoff, the updating of that book with parsed information, and the transmission of that information to market participants. More specifically, Applicants respectfully traverse the inference in paragraph 4(d) that the information is displayed to market participants during the transaction. Not only does Madoff not disclose such display to market participants during the transaction – which is essential to the secondary auction disclosed and claimed in the instant application – but Madoff teaches away from an auction with the bids visible to participants (col. 2, lines 65-66; col. 7, lines 56-57). As discussed above, Madoff teaches a market-participant-established extension of a price improvement over a market-participant-established exposure period that is accepted or not without the interaction of a secondary auction here claimed. Although it should be apparent from the nature of the auction,

Applicants respectfully offer additional amendments to Claims 1, 7, 11 and 17 to specify that price and quantity information for the secondary auction is made visible to market participants *during* the auction as supported in the specification (para. 0024); this was already specifically included in the prior amendment to Claims 10 and 20. The Examiner's response in paragraph 17 of the Detailed Action does not identify anything that suggests that any transaction information is displayed to counter-bidders during a Madoff price-improvement exposure period; what is disclosed in Madoff is the processor-internal matching and execution, with the express teaching that the "trading interest [should] remain anonymous as to price, size and identity" (col. 2, lines 65-66; col. 7, lines 56-57).

Applicants also respectfully traverse the Examiner's equation at paragraph 4(e) of Applicants' initiation of a secondary auction during a price improvement period set by the exchange to Madoff's specification of an exposure period for an offer; Madoff does not disclose a price improvement threshold or a "preset price improvement period." Again, Although it should be apparent from the nature of the auction, Applicants respectfully offer additional amendments to Claims 1, 7, 10, 11, 17, and 20 to specify that the preset price improvement threshold to begin the auction and the preset price improvement period time duration are preset for all price improvement auctions regardless of the market participant – who in Madoff specifies his own exposure time. The Examiner's response in paragraph 17 of the Detailed Action, referring to time stamp does not address this issue – in Madoff, the market participant initiates the transaction, but also selects the duration of his exposure; in all the claims in this application, the market participant may initiate a secondary auction of duration preset by the exchange if he makes a bid or offer better than a threshold price improvement established by the exchange. In this context, Applicants respectfully traverse the mapping of paragraph 4(f) on the transaction execution, including the specific allocations.

Because Madoff teaches away from a secondary auction – by teaching away from making bids prices and quantities visible during an interactive auction period – Hausser is not relevant. The issue is not that a Madoff price-improvement transaction can be completed anonymously, but whether Madoff even suggests secondary auctions with prices and quantities visible to and acted upon by participants during a price improvement period set by the auction operator of all

auctions. Madoff teaches away from making visible price and quantities bid during the participant-selected exposure period (col. 2, lines 65-66; col. 7, lines 56-57).

Because Madoff teaches away from Claims 1 and 7, even in view of Hausser, Claims 2-6 and 8-9, respectively dependent on them, are rendered unpatentable by either Madoff or Hausser individually or in combination. Applicants additionally respectfully traverse paragraphs 5 and 6 of the Detailed Action regarding Claims 3 and 4, as Madoff does not disclose a “preset price improvement” that is a threshold, but only a price improvement selected by the offeror. Moreover, the references in those paragraphs 5 and 6 do not support the assertion; indeed, the reference in column 4, lines 55-65, suggests long time periods of 15 or 30 seconds for the participant-selected Madoff exposure period – which has completely different bases than the 3 second time period appropriate for the exchange-established interactive auction period claimed in Claim 4. Applicants additionally respectfully traverse paragraphs 7 and 8 of the Detailed Action, regarding Claims 5 and 8 and Claims 6 and 9, respectively, as Madoff does not disclose or suggest any of the specific allocations limiting these claims.

Applicants respectfully traverse paragraph 9 of the Detailed Action as to Claim 10, as, explained in detail with respect to Claims 1 and 7 above, Madoff does not disclose an interactive secondary auction with a price-improvement threshold and duration set by the exchange. Specifically, Madoff teaches (col. 2, lines 65-66; col. 7, lines 56-57) away from the requirement in Claim 10 that “contra market orders or bids [are] displayed to auction participants during the price-improvement auction period.” Hausser does not add to Madoff in this regard; again, the issue is not privacy, but whether an interactive secondary auction is conducted at all.

Referring to the Examiner’s Detailed Action paragraph 10, as to Claims 11 and 17, Applicants respectfully traverse on the same bases as argued above relative to paragraph 3, as to Claims 1 and 7. Madoff does not disclose, but teaches away from an interactive secondary auction of a price improvement period or duration set by the exchange. As described in the above response to paragraph 3, Applicants have made further amendments to further clarify the distinction.

Because Madoff teaches away from Claims 11 and 17, even in view of Hausser, Claims 12-16 and 18-19, respectively dependent on them, are rendered unpatentable by either Madoff or Hausser individually or in combination. Applicants refer to and adopt its arguments above relative to paragraphs 5 through 8 of the Detailed Action in response to paragraphs 11 through 15 of the Detailed Action.

Applicants respectfully traverse paragraph 16 of the Detailed Action as to Claim 20, as, explained in detail with respect to Claims 1 and 7 above, Madoff does not disclose an interactive secondary auction with a price-improvement threshold and duration set by the exchange. Specifically, Madoff teaches (col. 2, lines 65-66; col. 7, lines 56-57) away from the requirement in Claim 20 that "improved bids or orders are . . . displayed anonymously to auction participants during the price-improvement auction period." Hausser does not add to Madoff in this regard; again, the issue is not privacy, but whether an interactive secondary auction is conducted at all.

Applicants thus request that the Examiner withdraw the rejections and grant favorable consideration and allowance.

Upon review of this paper, the Examiner is invited to contact the undersigned at 617-345-3263 with any questions or comments.

Respectfully submitted,

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